

**TELECOMMUNICATIONS RELATED TAXES,
FEES, AND CHARGES**

2003 GENERAL SESSION

STATE OF UTAH

Sponsor: Curtis S. Bramble

This act modifies the Sales and Use Tax Act to expand what telephone services are subject to the sales and use tax and to provide an exemption from sales and use taxes under specified circumstances for certain telephone services used by call centers and for purchases of machinery or equipment primarily used to provide telephone services to the general public. This act provides for diversion of sales and use taxes as dedicated credits to be used for devices assisting hearing or speech impaired persons. This act provides for diversion of sales and use taxes as dedicated credits to be used to fund the Poison Control Center. This act addresses how bundled transactions are taxed under the Sales and Use Tax Act. The act addresses customer remedies for over-payment of sales and use taxes. This act modifies the Public Utilities Title to eliminate the surcharge for telecommunication devices assisting hearing or speech impaired persons. This act repeals the emergency services telephone charge that funds the Poison Control Center. This act makes technical changes. The act takes effect on July 1, 2003.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

54-8b-10, as last amended by Chapters 174 and 375, Laws of Utah 1997

59-12-102, as last amended by Chapters 77, 117, 192 and 320, Laws of Utah 2002

59-12-103, as last amended by Chapters 77, 117, 320 and 329, Laws of Utah 2002

59-12-104, as last amended by Chapters 117, 138, 217 and 286, Laws of Utah 2002

ENACTS:

59-12-103.5, Utah Code Annotated 1953

59-12-110.1, Utah Code Annotated 1953



REPEALS:

69-2-5.5, as last amended by Chapter 320, Laws of Utah 2002

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **54-8b-10** is amended to read:

54-8b-10. Program to be established to impaired persons with telecommunication devices.

(1) As used in this section:

(a) "Certified deaf or severely hearing or speech impaired person" means any [state] person who:

(i) is a resident [who is so] of this state;

(ii) is certified as deaf or severely hearing or speech impaired by:

(A) a licensed physician, including an otolaryngologist[;];

(B) a licensed speech language pathologist[;];

(C) a licensed audiologist[;]; or

(D) a qualified state agency; and [who also]

(iii) qualifies for assistance under [any] a low income public assistance program administered by a state agency.

(b) (i) "Telecommunication device" means [any] a mechanical telephone adaptation device [which] that enables a deaf or severely hearing or speech impaired person to use the telephone [and which includes, but is not limited to:].

(ii) "Telecommunication device" includes:

(i) (A) a telecommunication [devices] device for the deaf [(TDD)];

(ii) (B) a telephone [amplifiers] amplifier;

(iii) (C) a telephone signal [devices] device;

(iv) (D) an artificial [larynxes] larynx; and

(v) (E) adaptive equipment for [TDD] a telecommunication device for the deaf keyboard access.

(2) (a) The commission shall ~~[hold hearings to]~~ establish a program ~~[whereby any]~~ under which a certified deaf or severely hearing or speech impaired ~~[customer of a telephone corporation which provides service through a local exchange]~~ person may obtain a telecommunication device capable of serving ~~[the customer]~~ that person:

59 (i) if the person is a customer of a telephone corporation that provides service through
60 a local exchange; and

61 (ii) at no charge to [him] the certified deaf or severely hearing or speech impaired
62 person beyond the rate for basic service.

63 (b) The commission shall hold hearings prior to establishing the program required by
64 Subsection (2)(a).

65 (3) The program described in Subsection (2) shall provide a dual party relay system
66 using third party intervention to connect a certified deaf or severely hearing or speech impaired
67 person with a normal hearing person by way of telecommunication devices designed for that
68 purpose.

69 ~~[(4) The commission shall impose a surcharge on each residence and business access~~
70 ~~line of each customer to the local exchange of any telephone corporation providing such lines~~
71 ~~in this state to cover the costs of the program. The commission shall establish by rule the~~
72 ~~amount to be charged, which may not exceed 25 cents per residence and business access line.~~
73 ~~The telephone corporation shall collect the surcharge from its customers and transfer the~~
74 ~~money collected to the commission under rules adopted by the commission. The surcharge~~
75 ~~shall be separately identified on customer bills.]~~

76 ~~[(5) Any] (4) The money [collected from the surcharge imposed under Subsection (4)~~
77 ~~shall be deposited in the state treasury as nonlapsing dedicated credits to be administered as~~
78 ~~determined by] transferred as dedicated credits to the [Public Service Commission. These~~
79 ~~dedicated credits may] commission under Subsection 59-12-103(12) for the program created~~
80 under this section shall be used only:

81 (a) for the purchase, maintenance, repair, and distribution of ~~[the devices for]~~ a
82 telecommunication device;

83 (b) for the acquisition, operation, maintenance, and repair of a dual party relay system;

84 ~~[(c) to reimburse telephone corporations for the expenses incurred in collecting and~~
85 ~~transferring to the commission the surcharge imposed by the commission;]~~

86 ~~[(d)]~~ (c) for the general administration of the program; and

87 ~~[(e)]~~ (d) to train persons in the use of ~~[the devices]~~ a telecommunication device.

88 ~~[(6) The telephone surcharge need not be collected by a local exchange company if the~~
89 ~~amount collected would be less than the actual administrative costs of the collection. In that~~

case, the local exchange company shall submit to the commission, in lieu of the revenue from the surcharge collection, a breakdown of the anticipated costs and the expected revenue from the collection, showing that the costs exceed the revenue.]

[~~(7)~~] (5) The commission shall solicit the advice, counsel, and physical assistance of severely hearing or speech impaired persons and the organizations serving them in the design and implementation of the program.

Section 2. Section **59-12-102** is amended to read:

59-12-102. Definitions.

As used in this chapter:

(1) (a) "Admission or user fees" includes season passes.

(b) "Admission or user fees" does not include annual membership dues to private organizations.

(2) "Area agency on aging" is as defined in Section 62A-3-101.

(3) "Authorized carrier" means:

(a) in the case of vehicles operated over public highways, the holder of credentials indicating that the vehicle is or will be operated pursuant to both the International Registration Plan and the International Fuel Tax Agreement;

(b) in the case of aircraft, the holder of a Federal Aviation Administration operating certificate or air carrier's operating certificate; or

(c) in the case of locomotives, freight cars, railroad work equipment, or other rolling stock, the holder of a certificate issued by the United States Surface Transportation Board.

(4) (a) For purposes of Subsection 59-12-104(43), "coin-operated amusement device" means:

(i) a coin-operated amusement, skill, or ride device;

(ii) that is not controlled through vendor-assisted, over-the-counter, sales of tokens;

and

(iii) includes a music machine, pinball machine, billiard machine, video game machine, arcade machine, and a mechanical or electronic skill game or ride.

(b) For purposes of Subsection 59-12-104(43), "coin-operated amusement device" does not mean a coin-operated amusement device possessing a coinage mechanism that:

(i) accepts and registers multiple denominations of coins; and

(ii) allows the vendor to collect the sales and use tax at the time an amusement device is activated and operated by a person inserting coins into the device.

(5) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other fuels that does not constitute industrial use under Subsection (13) or residential use under Subsection ~~[(23)]~~ (27).

(6) (a) "Common carrier" means a person engaged in or transacting the business of transporting passengers, freight, merchandise, or other property for hire within this state.

(b) (i) "Common carrier" does not include a person who, at the time the person is traveling to or from that person's place of employment, transports a passenger to or from the passenger's place of employment.

(ii) For purposes of Subsection (6)(b)(i), in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the commission may make rules defining what constitutes a person's place of employment.

(7) "Component part" includes:

(a) poultry, dairy, and other livestock feed, and their components;

(b) baling ties and twine used in the baling of hay and straw;

(c) fuel used for providing temperature control of orchards and commercial greenhouses doing a majority of their business in wholesale sales, and for providing power for off-highway type farm machinery; and

(d) feed, seeds, and seedlings.

(8) "Construction materials" means any tangible personal property that will be converted into real property.

(9) (a) "Fundraising sales" means sales:

(i) (A) made by a school; or

(B) made by a school student;

(ii) that are for the purpose of raising funds for the school to purchase equipment, materials, or provide transportation; and

(iii) that are part of an officially sanctioned school activity.

(b) For purposes of Subsection (9)(a)(iii), "officially sanctioned school activity" means a school activity:

(i) that is conducted in accordance with a formal policy adopted by the school or school

district governing the authorization and supervision of fundraising activities;

(ii) that does not directly or indirectly compensate an individual teacher or other educational personnel by direct payment, commissions, or payment in kind; and

(iii) the net or gross revenues from which are deposited in a dedicated account controlled by the school or school district.

(10) (a) "Hearing aid" means:

(i) an instrument or device having an electronic component that is designed to:

(A) (I) improve impaired human hearing; or

(II) correct impaired human hearing; and

(B) (I) be worn in the human ear; or

(II) affixed behind the human ear;

(ii) an instrument or device that is surgically implanted into the cochlea; or

(iii) a telephone amplifying device.

(b) "Hearing aid" does not include:

(i) except as provided in Subsection (10)(a)(i)(B) or (10)(a)(ii), an instrument or device having an electronic component that is designed to be worn on the body;

(ii) except as provided in Subsection (10)(a)(iii), an assistive listening device or system designed to be used by one individual, including:

(A) a personal amplifying system;

(B) a personal FM system;

(C) a television listening system; or

(D) a device or system similar to a device or system described in Subsections (10)(b)(ii)(A) through (C); or

(iii) an assistive listening device or system designed to be used by more than one individual, including:

(A) a device or system installed in:

(I) an auditorium;

(II) a church;

(III) a conference room;

(IV) a synagogue; or

(V) a theater; or

(B) a device or system similar to a device or system described in Subsections (10)(b)(iii)(A)(I) through (V).

(11) (a) "Hearing aid accessory" means a hearing aid:

- (i) component;
- (ii) attachment; or
- (iii) accessory.

(b) "Hearing aid accessory" includes:

- (i) a hearing aid neck loop;
- (ii) a hearing aid cord;
- (iii) a hearing aid ear mold;
- (iv) hearing aid tubing;
- (v) a hearing aid ear hook; or
- (vi) a hearing aid remote control.

(c) "Hearing aid accessory" does not include:

- (i) a component, attachment, or accessory designed to be used only with an:
 - (A) instrument or device described in Subsection (10)(b)(i); or
 - (B) assistive listening device or system described in Subsection (10)(b)(ii) or (iii); or
- (ii) a hearing aid battery.

(12) (a) Except as provided in Subsection (12)(c), "home medical equipment or supplies" means equipment or supplies that:

- (i) a licensed physician prescribes or authorizes in writing as necessary:
 - (A) for the treatment of a medical illness or injury; or
 - (B) to mitigate an impairment resulting from illness or injury;
- (ii) are used exclusively by the person for whom they are prescribed to serve a medical purpose; and
- (iii) are listed as eligible for payment under:
 - (A) Title XVIII of the federal Social Security Act; or
 - (B) the state plan for medical assistance under Title XIX of the federal Social Security Act.

(b) "Home medical equipment or supplies" includes parts used in the repairs or renovations of equipment or supplies described in Subsection (12)(a).

(c) Notwithstanding Subsection (12)(a), "home medical equipment or supplies" does not include:

(i) equipment or supplies purchased by, for, or on behalf of any:

(A) health care facility, as defined in Subsection (12)(d); or

(B) one or more of the following for use in a professional practice:

(I) a doctor;

(II) a nurse; or

(III) another health care provider;

(ii) eyeglasses, contact lenses, or equipment to correct impaired vision; or

(iii) hearing aids or hearing aid accessories.

(d) For purposes of Subsection (12)(c)(i)(A), "health care facility" includes:

(i) a clinic;

(ii) a doctor's office; or

(iii) a health care facility as defined in Section 26-21-2.

(13) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil, or other fuels:

(a) in mining or extraction of minerals;

(b) in agricultural operations to produce an agricultural product up to the time of harvest or placing the agricultural product into a storage facility, including:

(i) commercial greenhouses;

(ii) irrigation pumps;

(iii) farm machinery;

(iv) implements of husbandry as defined in Subsection 41-1a-102(23) that are not registered under Title 41, Chapter 1a, Part 2, Registration; and

(v) other farming activities;

(c) in manufacturing tangible personal property at an establishment described in SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget; or

(d) by a scrap recycler if:

(i) from a fixed location, the scrap recycler utilizes machinery or equipment to process one or more of the following items into prepared grades of processed materials for use in new

245 products:

246 (A) iron;

247 (B) steel;

248 (C) nonferrous metal;

249 (D) paper;

250 (E) glass;

251 (F) plastic;

252 (G) textile; or

253 (H) rubber; and

254 (ii) the new products under Subsection (13)(d)(i) would otherwise be made with

255 nonrecycled materials.

256 (14) "International telephone service" means:

257 (a) for telephone service other than mobile telecommunications service, telephone
258 service that:

259 (i) is charged to a telephone service address in Utah; and

260 (ii) (A) originates in Utah; and

261 (B) terminates outside of the United States; and

262 (b) for mobile telecommunications service, mobile telecommunications service that:

263 (i) is provided to a customer with a place of primary use in Utah; and

264 (ii) (A) originates in any state; and

265 (B) terminates outside of the United States.

266 (15) "Interstate telephone service" means:

267 (a) for telephone service other than mobile telecommunications service, telephone
268 service that:

269 (i) is charged to a telephone service address in Utah; and

270 (ii) (A) (I) originates in Utah; and

271 (II) terminates in a state other than Utah; or

272 (B) (I) originates in a state other than Utah; and

273 (II) terminates in Utah; and

274 (b) for mobile telecommunications service, mobile telecommunications service that:

275 (i) is provided to a customer with a place of primary use in Utah; and

276 (ii) (A) originates in any state; and
277 (B) terminates in a state other than the state in which it originates.
278 (16) "Intrastate telephone service" means:
279 (a) for telephone service other than mobile telecommunications service, telephone
280 service that:
281 (i) is charged to a telephone service address in Utah; and
282 (ii) (A) originates in Utah; and
283 (B) terminates in Utah; and
284 (b) for mobile telecommunications service, mobile telecommunications service that:
285 (i) is provided to a customer with a place of primary use in Utah; and
286 (ii) (A) originates in any state; and
287 (B) terminates in the state in which it originates.
288 ~~[(14)]~~ (17) "Manufactured home" means any manufactured home or mobile home as
289 defined in Title 58, Chapter 56, Utah Uniform Building Standards Act.
290 ~~[(15)]~~ (18) For purposes of Subsection 59-12-104(14), "manufacturing facility" means:
291 (a) an establishment described in SIC Codes 2000 to 3999 of the 1987 Standard
292 Industrial Classification Manual of the federal Executive Office of the President, Office of
293 Management and Budget; or
294 (b) a scrap recycler if:
295 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process
296 one or more of the following items into prepared grades of processed materials for use in new
297 products:
298 (A) iron;
299 (B) steel;
300 (C) nonferrous metal;
301 (D) paper;
302 (E) glass;
303 (F) plastic;
304 (G) textile; or
305 (H) rubber; and
306 (ii) the new products under Subsection ~~[(15)]~~ (18)(b)(i) would otherwise be made with

307 nonrecycled materials.

308 [~~(16)~~] (19) (a) "Medicine" means:

309 (i) insulin, syringes, and any medicine prescribed for the treatment of human ailments
310 by a person authorized to prescribe treatments and dispensed on prescription filled by a

311 registered pharmacist, or supplied to patients by a physician, surgeon, or podiatric physician;

312 (ii) any medicine dispensed to patients in a county or other licensed hospital if
313 prescribed for that patient and dispensed by a registered pharmacist or administered under the
314 direction of a physician; and

315 (iii) any oxygen or stoma supplies prescribed by a physician or administered under the
316 direction of a physician or paramedic.

317 (b) "Medicine" does not include:

318 (i) any auditory, prosthetic, ophthalmic, or ocular device or appliance; or

319 (ii) any alcoholic beverage.

320 [~~(17)~~] (20) "Mobile telecommunications service" is as defined in the Mobile
321 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

322 [~~(18)~~] (21) "Olympic merchandise" means tangible personal property bearing an
323 Olympic designation, emblem, insignia, mark, logo, service mark, symbol, terminology,
324 trademark, or other copyrighted or protected material, including:

325 (a) one or more of the following terms:

326 (i) "Olympic";

327 (ii) "Olympiad"; or

328 (iii) "Citius Altius Fortius";

329 (b) the symbol of the International Olympic Committee, consisting of five interlocking
330 rings;

331 (c) the emblem of the International Olympic Committee Corporation;

332 (d) a United States Olympic Committee designation, emblem, insignia, mark, logo,
333 service mark, symbol, terminology, trademark, or other copyrighted or protected material;

334 (e) any emblem of the Olympic Winter Games of 2002 that is officially designated by
335 the Salt Lake Organizing Committee of the Olympic Winter Games of 2002; or

336 (f) the mascot of the Olympic Winter Games of 2002.

337 [~~(19)~~] (22) (a) "Other fuels" means products that burn independently to produce heat or

energy.

(b) "Other fuels" includes oxygen when it is used in the manufacturing of tangible personal property.

~~[(20)]~~ (23) "Person" includes any individual, firm, partnership, joint venture, association, corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city, municipality, district, or other local governmental entity of the state, or any group or combination acting as a unit.

(24) "Place of primary use":

(a) for telephone service other than mobile telecommunications service, means the street address representative of where the purchaser's use of the telephone service primarily occurs, which shall be:

(i) the residential street address of the purchaser; or

(ii) the primary business street address of the purchaser; or

(b) for mobile telecommunications service, is as defined in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

~~[(21)]~~ (25) "Purchase price" means the amount paid or charged for tangible personal property or any other taxable transaction under Subsection 59-12-103(1), excluding only cash discounts taken or any excise tax imposed on the purchase price by the federal government.

~~[(22)]~~ (26) "Regularly rented" means:

(a) rented to a guest for value three or more times during a calendar year; or

(b) advertised or held out to the public as a place that is regularly rented to guests for value.

~~[(23)]~~ (27) "Residential use" means the use in or around a home, apartment building, sleeping quarters, and similar facilities or accommodations.

~~[(24)]~~ (28) (a) "Retail sale" means any sale within the state of tangible personal property or any other taxable transaction under Subsection 59-12-103(1), other than resale of such property, item, or service by a retailer or wholesaler to a user or consumer.

(b) "Retail sale" includes sales by any farmer or other agricultural producer of poultry, eggs, or dairy products to consumers if the sales have an average monthly sales value of \$125 or more.

(c) "Retail sale" does not include, and no additional sales or use tax shall be assessed

369 against, those transactions where a purchaser of tangible personal property pays applicable
370 sales or use taxes on its initial nonexempt purchases of property and then enters into a
371 sale-leaseback transaction by which title to such property is transferred by the purchaser-lessee
372 to a lessor for consideration, provided:

373 (i) the transaction is intended as a form of financing for the property to the
374 purchaser-lessee; and

375 (ii) pursuant to generally accepted accounting principles, the purchaser-lessee is
376 required to capitalize the subject property for financial reporting purposes, and account for the
377 lease payments as payments made under a financing arrangement.

378 [~~(25)~~] (29) (a) "Retailer" means any person engaged in a regularly organized retail
379 business in tangible personal property or any other taxable transaction under Subsection
380 59-12-103(1), and who is selling to the user or consumer and not for resale.

381 (b) "Retailer" includes commission merchants, auctioneers, and any person regularly
382 engaged in the business of selling to users or consumers within the state.

383 (c) "Retailer" does not include farmers, gardeners, stockmen, poultrymen, or other
384 growers or agricultural producers producing and doing business on their own premises, except
385 those who are regularly engaged in the business of buying or selling for a profit.

386 (d) For purposes of this chapter the commission may regard as retailers the following if
387 they determine it is necessary for the efficient administration of this chapter: salesmen,
388 representatives, peddlers, or canvassers as the agents of the dealers, distributors, supervisors, or
389 employers under whom they operate or from whom they obtain the tangible personal property
390 sold by them, irrespective of whether they are making sales on their own behalf or on behalf of
391 these dealers, distributors, supervisors, or employers, except that:

392 (i) a printer's facility with which a retailer has contracted for printing shall not be
393 considered to be a salesman, representative, peddler, canvasser, or agent of the retailer; and

394 (ii) the ownership of property that is located at the premises of a printer's facility with
395 which the retailer has contracted for printing and that consists of the final printed product,
396 property that becomes a part of the final printed product, or copy from which the printed
397 product is produced, shall not result in the retailer being deemed to have or maintain an office,
398 distribution house, sales house, warehouse, service enterprise, or other place of business, or to
399 maintain a stock of goods, within this state.

400 ~~[(26)]~~ (30) "Sale" means any transfer of title, exchange, or barter, conditional or
401 otherwise, in any manner, of tangible personal property or any other taxable transaction under
402 Subsection 59-12-103(1), for consideration. It includes:

- 403 (a) installment and credit sales;
- 404 (b) any closed transaction constituting a sale;
- 405 (c) any sale of electrical energy, gas, services, or entertainment taxable under this
406 chapter;
- 407 (d) any transaction if the possession of property is transferred but the seller retains the
408 title as security for the payment of the price; and
- 409 (e) any transaction under which right to possession, operation, or use of any article of
410 tangible personal property is granted under a lease or contract and the transfer of possession
411 would be taxable if an outright sale were made.

412 ~~[(27)]~~ (31) (a) "Sales relating to schools" means the following sales by, amounts paid
413 to, or amounts charged by a school:

414 (i) sales that are directly related to the school's educational functions or activities
415 including:

- 416 (A) the sale of:
 - 417 (I) textbooks;
 - 418 (II) textbook fees;
 - 419 (III) laboratory fees;
 - 420 (IV) laboratory supplies; or
 - 421 (V) safety equipment;
- 422 (B) the sale of clothing that:
 - 423 (I) a student is specifically required to wear as a condition of participation in a
424 school-related event or school-related activity; and
 - 425 (II) is not readily adaptable to general or continued usage to the extent that it takes the
426 place of ordinary clothing;
- 427 (C) sales of food if the net or gross revenues generated by the food sales are deposited
428 into a school district fund or school fund dedicated to school meals; or
- 429 (D) transportation charges for official school activities; or
- 430 (ii) amounts paid to or amounts charged by a school for admission to a school-related

event or school-related activity.

(b) "Sales relating to schools" does not include:

(i) bookstore sales of items that are not educational materials or supplies;

(ii) except as provided in Subsection ~~[(27)]~~ (31)(a)(i)(B), clothing; or

(iii) amounts paid to or amounts charged by a school for admission to a school-related event or school-related activity if the amounts paid or charged are passed through to a person:

(A) other than a:

(I) school;

(II) nonprofit organization authorized by a school board or a governing body of a private school to organize and direct a competitive secondary school activity; or

(III) nonprofit association authorized by a school board or a governing body of a private school to organize and direct a competitive secondary school activity; and

(B) that is required to collect sales and use taxes under this chapter.

(c) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the commission may make rules defining the term "passed through."

~~[(28)]~~ (32) For purposes of this section and Section 59-12-104, "school" means:

(a) an elementary school or a secondary school that:

(i) is a:

(A) public school; or

(B) private school; and

(ii) provides instruction for one or more grades kindergarten through 12; or

(b) a public school district.

~~[(29)]~~ (33) (a) "Semiconductor fabricating or processing materials" means tangible personal property:

(i) used primarily in the process of:

(A) (I) manufacturing a semiconductor; or

(II) fabricating a semiconductor; or

(B) maintaining an environment suitable for a semiconductor; or

(ii) consumed primarily in the process of:

(A) (I) manufacturing a semiconductor; or

(II) fabricating a semiconductor; or

(B) maintaining an environment suitable for a semiconductor.

(b) "Semiconductor fabricating or processing materials" includes:

(i) parts used in the repairs or renovations of tangible personal property described in

Subsection ~~[(29)]~~ (33)(a); or

(ii) a chemical, catalyst, or other material used to:

(A) produce or induce in a semiconductor a:

(I) chemical change; or

(II) physical change;

(B) remove impurities from a semiconductor; or

(C) improve the marketable condition of a semiconductor.

~~[(30)]~~ (34) "Senior citizen center" means a facility having the primary purpose of providing services to the aged as defined in Section 62A-3-101.

~~[(31)]~~ (35) "State" means the state of Utah, its departments, and agencies.

~~[(32)]~~ (36) "Storage" means any keeping or retention of tangible personal property or any other taxable transaction under Subsection 59-12-103(1), in this state for any purpose except sale in the regular course of business.

~~[(33)]~~ (37) (a) "Tangible personal property" means:

(i) all goods, wares, merchandise, produce, and commodities;

(ii) all tangible or corporeal things and substances which are dealt in or capable of being possessed or exchanged;

(iii) water in bottles, tanks, or other containers; and

(iv) all other physically existing articles or things, including property severed from real estate.

(b) "Tangible personal property" does not include:

(i) real estate or any interest or improvements in real estate;

(ii) bank accounts, stocks, bonds, mortgages, notes, and other evidence of debt;

(iii) insurance certificates or policies;

(iv) personal or governmental licenses;

(v) water in pipes, conduits, ditches, or reservoirs;

(vi) currency and coinage constituting legal tender of the United States or of a foreign nation; and

(vii) all gold, silver, or platinum ingots, bars, medallions, or decorative coins, not constituting legal tender of any nation, with a gold, silver, or platinum content of not less than 80%.

~~[(34)] (38) (a) [For purposes of Subsection (35) and Section 59-12-103, "telephone]~~
"Telephone service" means a two-way transmission:

(i) by:

(A) wire;

(B) radio;

(C) lightwave; or

(D) other electromagnetic means; and

(ii) of one or more of the following:

(A) a sign;

(B) a signal;

(C) writing;

(D) an image;

(E) sound;

(F) a message;

(G) data; or

(H) other information of any nature.

(b) "Telephone service" includes:

(i) cellular telephone service;

(ii) private communications service; or

(iii) automated digital telephone answering service.

(c) "Telephone service" does not include a service or a transaction that a state or a political subdivision of a state is prohibited from taxing as of July 1, 2001, under the Internet Tax Freedom Act, Pub. L. No. 105-277.

(39) Notwithstanding where a call is billed or paid, for telephone service other than mobile telecommunications service, "telephone service address" means:

(a) if the location described in this Subsection (39)(a) is known, the location of the telecommunications equipment:

(i) to which a call is charged; and

(ii) from which the call originates or terminates;

(b) if the location described in Subsection (39)(a) is not known but the location described in this Subsection (39)(b) is known, the location of the origination point of the signal of the telephone service first identified by:

(i) the telecommunications system of the seller; or

(ii) if the system used to transport the signal is not that of the seller, information received by the seller from its service provider; or

(c) if the locations described in Subsection (39)(a) or (b) are not known, the location of a customer's place of primary use.

~~[(35)]~~ (40) (a) "Telephone service provider" means a person that:

(i) owns, controls, operates, or manages a telephone service; and

(ii) engages in an activity described in Subsection ~~[(35)]~~ (40)(a)(i) for the shared use with or resale to any person of the telephone service.

(b) A person described in Subsection ~~[(35)]~~ (40)(a) is a telephone service provider whether or not the Public Service Commission of Utah regulates:

(i) that person; or

(ii) the telephone service that the person owns, controls, operates, or manages.

~~[(36)]~~ (41) (a) "Use" means the exercise of any right or power over tangible personal property under Subsection 59-12-103(1), incident to the ownership or the leasing of that property, item, or service.

(b) "Use" does not include the sale, display, demonstration, or trial of that property in the regular course of business and held for resale.

~~[(37)]~~ (42) "Vehicle" means any aircraft, as defined in Section 72-10-102; any vehicle, as defined in Section 41-1a-102; any off-highway vehicle, as defined in Section 41-22-2; and any vessel, as defined in Section 41-1a-102; that is required to be titled, registered, or both. "Vehicle," for purposes of Subsection 59-12-104(36) only, also includes any locomotive, freight car, railroad work equipment, or other railroad rolling stock.

~~[(38)]~~ (43) "Vehicle dealer" means a person engaged in the business of buying, selling, or exchanging vehicles as defined in Subsection ~~[(37)]~~ (42).

~~[(39)]~~ (44) (a) "Vendor" means any person receiving any payment or consideration upon a sale of tangible personal property or any other taxable transaction under Subsection

59-12-103(1), or to whom the payment or consideration is payable.

(b) "Vendor" does not mean a printer's facility described in Subsection [(25)] (29)(d).

Section 3. Section **59-12-103** is amended to read:

59-12-103. Sales and use tax base -- Rate -- Use of sales and use tax revenues.

(1) A tax is imposed on the purchaser as provided in this part for amounts paid or charged for the following transactions:

(a) retail sales of tangible personal property made within the state;

(b) amounts paid:

(i) (A) to a common carrier; or

(B) whether the following are municipally or privately owned, to a:

(I) telephone service provider; or

(II) telegraph corporation as defined in Section 54-2-1; and

(ii) for:

(A) all transportation;

(B) telephone service, other than mobile telecommunications service, that [originates and terminates within the boundaries of this state;] is:

(I) intrastate telephone service;

(II) interstate telephone service; or

(III) international telephone service;

(C) mobile telecommunications service, [that originates and terminates within the boundaries of one state only] to the extent permitted by the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 116 et seq.[-or], that is:

(I) intrastate telephone service;

(II) interstate telephone service; or

(III) international telephone service; or

(D) telegraph service;

(c) sales of the following for commercial use:

(i) gas;

(ii) electricity;

(iii) heat;

(iv) coal;

586 (v) fuel oil; or
587 (vi) other fuels;
588 (d) sales of the following for residential use:
589 (i) gas;
590 (ii) electricity;
591 (iii) heat;
592 (iv) coal;
593 (v) fuel oil; or
594 (vi) other fuels;
595 (e) sales of meals;
596 (f) except as provided in Section 59-12-104, amounts paid or charged as admission or
597 user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature,
598 exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries,
599 fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit
600 television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf
601 driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails,
602 tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises,
603 horseback rides, sports activities, or any other amusement, entertainment, recreation,
604 exhibition, cultural, or athletic activity;
605 (g) amounts paid or charged for services:
606 (i) for repairs or renovations of tangible personal property, unless Section 59-12-104
607 provides for an exemption from sales and use tax for:
608 (A) the tangible personal property; and
609 (B) parts used in the repairs or renovations of the tangible personal property described
610 in Subsection (1)(g)(i)(A), whether or not any parts are actually used in the repairs or
611 renovations of that tangible personal property; or
612 (ii) to install tangible personal property in connection with other tangible personal
613 property, unless the tangible personal property being installed is exempt from sales and use tax
614 under Section 59-12-104;
615 (h) except as provided in Subsection 59-12-104(7), amounts paid or charged for
616 cleaning or washing of tangible personal property;

(i) amounts paid or charged for tourist home, hotel, motel, or trailer court accommodations and services that are regularly rented for less than 30 consecutive days;

(j) amounts paid or charged for laundry or dry cleaning services;

(k) amounts paid or charged for leases or rentals of tangible personal property if:

(i) the tangible personal property's situs is in this state;

(ii) the lessee took possession of the tangible personal property in this state; or

(iii) within this state the tangible personal property is:

(A) stored;

(B) used; or

(C) otherwise consumed;

(l) amounts paid or charged for tangible personal property if within this state the tangible personal property is:

(i) stored;

(ii) used; or

(iii) consumed; and

(m) amounts paid or charged for prepaid telephone calling cards.

(2) (a) Except as provided in Subsections (2)(b) and (c), beginning on July 1, 2001, a state tax and a local tax is imposed on a transaction described in Subsection (1) equal to the sum of:

(i) a state tax imposed on the transaction at a rate of 4.75%; and

(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the transaction under this chapter other than this part.

(b) Notwithstanding Subsection (2)(a), beginning on July 1, 2001, a state tax and a local tax is imposed on a transaction described in Subsection (1)(d) equal to the sum of:

(i) a state tax imposed on the transaction at a rate of 2%; and

(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the transaction under this chapter other than this part.

(c) Notwithstanding Subsections (2)(a) and (b), beginning on July 1, 2001, if a vendor collects a tax under Subsection 59-12-107(1)(b) on a transaction described in Subsection (1), a state tax and a local tax is imposed on the transaction equal to the sum of:

(i) a state tax imposed on the transaction at a rate of:

648 (A) 4.75% for a transaction other than a transaction described in Subsection (1)(d); or

649 (B) 2% for a transaction described in Subsection (1)(d); and

650 (ii) except as provided in Subsection (2)(d), a local tax imposed on the transaction at a
651 rate equal to the sum of the following tax rates:

652 (A) (I) the lowest tax rate imposed by a county, city, or town under Section 59-12-204,
653 but only if all of the counties, cities, and towns in the state impose the tax under Section
654 59-12-204; or

655 (II) the lowest tax rate imposed by a county, city, or town under Section 59-12-205, but
656 only if all of the counties, cities, and towns in the state impose the tax under Section
657 59-12-205; and

658 (B) the tax rate authorized by Section 59-12-1102, but only if all of the counties in the
659 state impose the tax under Section 59-12-1102.

660 (d) Tax rates authorized under the following do not apply to Subsection (2)(c)(ii):

661 (i) Subsection (2)(a)(i);

662 (ii) Subsection (2)(b)(i);

663 (iii) Subsection (2)(c)(i);

664 (iv) Section 59-12-301;

665 (v) Section 59-12-352;

666 (vi) Section 59-12-353;

667 (vii) Section 59-12-401;

668 (viii) Section 59-12-402;

669 (ix) Section 59-12-501;

670 (x) Section 59-12-502;

671 (xi) Section 59-12-603;

672 (xii) Section 59-12-703;

673 (xiii) Section 59-12-802;

674 (xiv) Section 59-12-804;

675 (xv) Section 59-12-1001;

676 (xvi) Section 59-12-1201; or

677 (xvii) Section 59-12-1302.

678 (3) (a) Except as provided in Subsections (4) through (9), the state taxes described in

Subsections (2)(a)(i), (2)(b)(i), and (2)(c)(i) shall be deposited into the General Fund.

(b) The local taxes described in Subsections (2)(a)(ii) and (2)(b)(ii) shall be distributed to a county, city, or town as provided in this chapter.

(c) (i) Notwithstanding any provision of this chapter, each county, city, or town in the state shall receive the county's, city's, or town's proportionate share of the revenues generated by the local tax described in Subsection (2)(c)(ii) as provided in Subsection (3)(c)(ii).

(ii) The commission shall determine a county's, city's, or town's proportionate share of the revenues under Subsection (3)(c)(i) by:

(A) calculating an amount equal to:

(I) the population of the county, city, or town; divided by

(II) the total population of the state; and

(B) multiplying the amount determined under Subsection (3)(c)(ii)(A) by the total amount of revenues generated by the local tax under Subsection (2)(c)(ii) for all counties, cities, and towns.

(iii) (A) Except as provided in Subsection (3)(c)(iii)(B), population figures for purposes of this section shall be derived from the most recent official census or census estimate of the United States Census Bureau.

(B) Notwithstanding Subsection (3)(c)(iii)(A), if a needed population estimate is not available from the United States Census Bureau, population figures shall be derived from the estimate from the Utah Population Estimates Committee created by executive order of the governor.

(C) For purposes of this section, the population of a county may only include the population of the unincorporated areas of the county.

(4) (a) Notwithstanding Subsection (3)(a), there shall be deposited in an Olympics special revenue fund or funds as determined by the Division of Finance under Section 51-5-4, for the use of the Utah Sports Authority created under Title 63A, Chapter 7, Utah Sports Authority Act:

(i) from January 1, 1990, through December 31, 1999, the amount of sales and use tax generated by a 1/64% tax rate on the taxable transactions under Subsection (1);

(ii) from January 1, 1990, through June 30, 1999, the amount of revenue generated by a 1/64% tax rate under Section 59-12-204 or Section 59-12-205 on the taxable transactions under

Subsection (1); and

(iii) interest earned on the amounts under Subsections (4)(a)(i) and (ii).

(b) These funds shall be used:

(i) by the Utah Sports Authority as follows:

(A) to the extent funds are available, to transfer directly to a debt service fund or to otherwise reimburse to the state any amount expended on debt service or any other cost of any bonds issued by the state to construct any public sports facility as defined in Section 63A-7-103;

(B) to pay for the actual and necessary operating, administrative, legal, and other expenses of the Utah Sports Authority, but not including protocol expenses for seeking and obtaining the right to host the Winter Olympic Games;

(C) as otherwise appropriated by the Legislature; and

(D) unless the Legislature appropriates additional funds from the Olympics Special Revenue Fund to the Utah Sports Authority, the Utah Sports Authority may not expend, loan, or pledge in the aggregate more than:

(I) \$59,000,000 of sales and use tax deposited into the Olympics Special Revenue Fund under Subsection (4)(a);

(II) the interest earned on the amount described in Subsection (4)(b)(i)(D)(I); and

(III) the revenues deposited into the Olympics Special Revenue Fund that are not sales and use taxes deposited under Subsection (4)(a) or interest on the sales and use taxes;

(ii) to pay salary, benefits, or administrative costs associated with the State Olympic Officer under Subsection 63A-10-103(3), except that the salary, benefits, or administrative costs may not be paid from the sales and use tax revenues generated by municipalities or counties and deposited under Subsection (4)(a)(ii).

(c) A payment of salary, benefits, or administrative costs under Subsection 63A-10-103(3) is not considered an expenditure of the Utah Sports Authority.

(d) If the Legislature appropriates additional funds under Subsection (4)(b)(i)(D), the authority may not expend, loan, pledge, or enter into any agreement to expend, loan, or pledge the appropriated funds unless the authority:

(i) contracts in writing for the full reimbursement of the monies to the Olympics Special Revenue Fund by a public sports entity or other person benefitting from the

741 expenditure; and

742 (ii) obtains a security interest that secures payment or performance of the obligation to
743 reimburse.

744 (e) A contract or agreement entered into in violation of Subsection (4)(d) is void.

745 (5) (a) Notwithstanding Subsection (3)(a) and except as provided in Subsection (11),
746 beginning on July 1, 2001, the amount of sales and use tax generated annually by a 1/16% tax
747 rate on the taxable transactions under Subsection (1) shall be used as provided in Subsections
748 (5)(b) through (g).

749 (b) (i) Beginning on July 1, 2001, \$2,300,000 each year shall be transferred as
750 dedicated credits to the Department of Natural Resources to:

751 (A) implement the measures described in Subsections 63-34-14(4)(a) through (d) to
752 protect sensitive plant and animal species; or

753 (B) award grants, up to the amount authorized by the Legislature in an appropriations
754 act, to political subdivisions of the state to implement the measures described in Subsections
755 63-34-14(4)(a) through (d) to protect sensitive plant and animal species.

756 (ii) Money transferred to the Department of Natural Resources under Subsection
757 (5)(b)(i) may not be used to assist the United States Fish and Wildlife Service or any other
758 person to list or attempt to have listed a species as threatened or endangered under the
759 Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.

760 (iii) At the end of each fiscal year:

761 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources
762 Conservation and Development Fund created in Section 73-10-24;

763 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan
764 Program Subaccount created in Section 73-10c-5; and

765 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan
766 Program Subaccount created in Section 73-10c-5.

767 (c) Five hundred thousand dollars each year shall be deposited in the Agriculture
768 Resource Development Fund created in Section 4-18-6.

769 (d) (i) One hundred thousand dollars each year shall be transferred as dedicated credits
770 to the Division of Water Rights to cover the costs incurred in hiring legal and technical staff for
771 the adjudication of water rights.

(ii) At the end of each fiscal year:

(A) 50% of any unexpended dedicated credits shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24;

(B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5; and

(C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan Program Subaccount created in Section 73-10c-5.

(e) Fifty percent of the remaining amount generated by the 1/16% tax rate shall be deposited in the Water Resources Conservation and Development Fund created in Section 73-10-24 for use by the Division of Water Resources. In addition to the uses allowed of the fund under Section 73-10-24, the fund may also be used to:

(i) provide a portion of the local cost share, not to exceed in any fiscal year 50% of the funds made available to the Division of Water Resources under this section, of potential project features of the Central Utah Project;

(ii) conduct hydrologic and geotechnical investigations by the Department of Natural Resources in a cooperative effort with other state, federal, or local entities, for the purpose of quantifying surface and ground water resources and describing the hydrologic systems of an area in sufficient detail so as to enable local and state resource managers to plan for and accommodate growth in water use without jeopardizing the resource;

(iii) fund state required dam safety improvements; and

(iv) protect the state's interest in interstate water compact allocations, including the hiring of technical and legal staff.

(f) Twenty-five percent of the remaining amount generated by the 1/16% tax rate shall be deposited in the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

(g) Twenty-five percent of the remaining amount generated by the 1/16% tax rate shall be deposited in the Drinking Water Loan Program Subaccount created in Section 73-10c-5 for use by the Division of Drinking Water to:

(i) provide for the installation and repair of collection, treatment, storage, and distribution facilities for any public water system, as defined in Section 19-4-102;

(ii) develop underground sources of water, including springs and wells; and

(iii) develop surface water sources.

(6) (a) Notwithstanding Subsection (3)(a), beginning on July 1, 2001, the amount of sales and use tax generated annually by a 1/16% tax rate on the taxable transactions under Subsection (1) shall be used as provided in Subsections (6)(b) through (d).

(b) (i) Five hundred thousand dollars each year shall be deposited in the Transportation Corridor Preservation Revolving Loan Fund created in Section 72-2-117.

(ii) At least 50% of the money deposited in the Transportation Corridor Preservation Revolving Loan Fund under Subsection (6)(b)(i) shall be used to fund loan applications made by the Department of Transportation at the request of local governments.

(c) From July 1, 1997, through June 30, 2006, \$500,000 each year shall be transferred as nonlapsing dedicated credits to the Department of Transportation for the State Park Access Highways Improvement Program created in Section 72-3-207.

(d) The remaining amount generated by the 1/16% tax rate shall be deposited in the class B and class C roads account to be expended as provided in Title 72, Chapter 2, Transportation Finances Act, for the use of class B and C roads.

(7) (a) Notwithstanding Subsection (3)(a), beginning on January 1, 2000, the Division of Finance shall deposit into the Centennial Highway Fund created in Section 72-2-118 a portion of the state sales and use tax under Subsection (2) equal to the revenues generated by a 1/64% tax rate on the taxable transactions under Subsection (1).

(b) Except for sales and use taxes deposited under Subsection (8), beginning on July 1, 1999, the revenues generated by the 1/64% tax rate:

(i) retained under Subsection 59-12-204(7)(a) shall be retained by the counties, cities, or towns as provided in Section 59-12-204; and

(ii) retained under Subsection 59-12-205(4)(a) shall be distributed to each county, city, and town as provided in Section 59-12-205.

(8) Notwithstanding Subsection (3)(a), beginning on July 1, 1999, the commission shall deposit into the Airport to University of Utah Light Rail Restricted Account created in Section 17A-2-1064 the portion of the sales and use tax under Sections 59-12-204 and 59-12-205 that is:

(a) generated by a city or town that will have constructed within its boundaries the Airport to University of Utah Light Rail described in the Transportation Equity Act for the 21st

Century, Pub. L. No. 105-178, Sec. 3030(c)(2)(B)(i)(II), 112 Stat. 107; and

(b) equal to the revenues generated by a 1/64% tax rate on the taxable items and services under Subsection (1).

(9) (a) Notwithstanding Subsection (3)(a), for fiscal years beginning on or after fiscal year 2002-03, the commission shall on or before September 30 of each year deposit the difference described in Subsection (9)(b) into the Remote Sales Restricted Account created in Section 59-12-103.2 if that difference is greater than \$0.

(b) The difference described in Subsection (9)(a) is equal to the difference between:

(i) the total amount of revenues under Subsection (2)(c)(i) the commission received from vendors collecting a tax under Subsection 59-12-107(1)(b) for the fiscal year immediately preceding the September 30 described in Subsection (9)(a); and

(ii) the total amount of revenues under Subsection (2)(c)(i) the commission estimates that the commission received from vendors described in Subsection 59-12-107(1)(b) for fiscal year 2000-01.

(10) (a) For purposes of amounts paid or charged as admission or user fees relating to the Olympic Winter Games of 2002, the amounts are considered to be paid or charged on the day on which the Salt Lake Organizing Committee for the Olympic Winter Games of 2002 or a person designated by the Salt Lake Organizing Committee for the Olympic Winter Games of 2002 sends a purchaser confirmation of the purchase of an admission or user fee described in Subsection (1)(f).

(b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the commission shall make rules defining what constitutes sending a purchaser confirmation under Subsection (10)(a).

(11) (a) For fiscal year 2001-02 only, the commission shall subtract the following amounts from the total amount required to be deposited in accordance with Subsection (5):

(i) \$250,000 shall be subtracted from the total amount required to be deposited into the Drinking Water Loan Program Subaccount in accordance with Subsection (5)(g); and

(ii) \$250,000 shall be subtracted from the total amount required to be deposited into the Utah Wastewater Loan Program Subaccount in accordance with Subsection (5)(f).

(b) For fiscal year 2002-03 only, the following amounts shall be subtracted from the total amount required to be deposited in accordance with Subsection (5):

(i) \$310,000 shall be subtracted from the total amount required to be deposited into the Agriculture Resource Development Fund in accordance with Subsection (5)(c);

(ii) \$2,500,000 shall be subtracted from the total amount required to be deposited into the Drinking Water Loan Program Subaccount in accordance with Subsection (5)(g);

(iii) \$2,500,000 shall be subtracted from the total amount required to be deposited into the Utah Wastewater Loan Program Subaccount in accordance with Subsection (5)(f); and

(iv) \$4,690,000 shall be subtracted from the total amount required to be deposited into the Water Resources Conservation and Development Fund in accordance with Subsection (5)(e).

(c) The amounts subtracted under Subsection (11)(a) or (b) shall be deposited into the General Fund.

(12) Notwithstanding Subsection (3)(a), beginning on July 1, 2003, the amount of sales and use tax generated annually by a 1/125% tax rate on the taxable transactions under Subsection (1) shall be transferred as nonlapsing dedicated credits to the Public Service Commission for the purposes provided in Section 54-8b-10.

(13) Notwithstanding Subsection (3)(a), beginning on July 1, 2003, the amount of sales and use tax generated annually by a 1/180% tax rate on the taxable transactions under Subsection (1) shall be deposited into the General Fund as nonlapsing dedicated credits to pay for costs of establishing, installing, maintaining, and operating the University of Utah Poison Control Center.

Section 4. Section **59-12-103.5** is enacted to read:

59-12-103.5. Bundling of telephone services.

(1) For purposes of this section, "nontaxable services" means services that are not taxable under this chapter.

(2) Except to the extent prohibited by federal law, if a telephone service provider provides nontaxable services to a purchaser as part of the same transaction in which the telephone service provider provides telephone service taxed under this chapter, the portion of the purchase price attributable to nontaxable services is subject to a tax under this chapter unless:

(a) the portion of the purchase price attributable to the nontaxable services is separately identified in the statement of transaction with the purchaser; or

(b) from the books and records of the telephone service provider that are kept in the regular course of business, the telephone service provider can reasonably identify the portion of the total charge for the transaction that is attributable to nontaxable services.

Section 5. Section **59-12-104** is amended to read:

59-12-104. Exemptions.

The following sales and uses are exempt from the taxes imposed by this chapter:

(1) sales of aviation fuel, motor fuel, and special fuel subject to a Utah state excise tax under Chapter 13, Motor and Special Fuel Tax Act;

(2) sales to the state, its institutions, and its political subdivisions; however, this exemption does not apply to sales of:

(a) construction materials except:

(i) construction materials purchased by or on behalf of institutions of the public education system as defined in Utah Constitution Article X, Section 2, provided the construction materials are clearly identified and segregated and installed or converted to real property which is owned by institutions of the public education system; and

(ii) construction materials purchased by the state, its institutions, or its political subdivisions which are installed or converted to real property by employees of the state, its institutions, or its political subdivisions; or

(b) tangible personal property in connection with the construction, operation, maintenance, repair, or replacement of a project, as defined in Section 11-13-103, or facilities providing additional project capacity, as defined in Section 11-13-103;

(3) sales of food, beverage, and dairy products from vending machines in which the proceeds of each sale do not exceed \$1 if the vendor or operator of the vending machine reports an amount equal to 150% of the cost of items as goods consumed;

(4) sales of food, beverage, dairy products, similar confections, and related services to commercial airline carriers for in-flight consumption;

(5) sales of parts and equipment for installation in aircraft operated by common carriers in interstate or foreign commerce;

(6) sales of commercials, motion picture films, prerecorded audio program tapes or records, and prerecorded video tapes by a producer, distributor, or studio to a motion picture exhibitor, distributor, or commercial television or radio broadcaster;

927 (7) sales of cleaning or washing of tangible personal property by a coin-operated
928 laundry or dry cleaning machine;

929 (8) (a) except as provided in Subsection (8)(b), sales made to or by religious or
930 charitable institutions in the conduct of their regular religious or charitable functions and
931 activities, if the requirements of Section 59-12-104.1 are fulfilled;

932 (b) the exemption provided for in Subsection (8)(a) does not apply to the following
933 sales, uses, leases, or rentals relating to the Olympic Winter Games of 2002 made to or by an
934 organization exempt from federal income taxation under Section 501(c)(3), Internal Revenue
935 Code:

936 (i) retail sales of Olympic merchandise;

937 (ii) except as provided in Subsection (51), admissions or user fees described in
938 Subsection 59-12-103(1)(f);

939 (iii) sales of accommodations and services as provided in Subsection 59-12-103(1)(i),
940 except for accommodations and services:

941 (A) paid for in full by the Salt Lake Organizing Committee for the Olympic Winter
942 Games of 2002;

943 (B) exclusively used by:

944 (I) an officer, a trustee, or an employee of the Salt Lake Organizing Committee for the
945 Olympic Winter Games of 2002; or

946 (II) a volunteer supervised by the Salt Lake Organizing Committee for the Olympic
947 Winter Games of 2002; and

948 (C) for which the Salt Lake Organizing Committee for the Olympic Winter Games of
949 2002 does not receive reimbursement; or

950 (iv) a lease or rental of a vehicle as defined in Section 41-1a-102, except for a lease or
951 rental of a vehicle:

952 (A) paid for in full by the Salt Lake Organizing Committee for the Olympic Winter
953 Games of 2002;

954 (B) exclusively used by:

955 (I) an officer, a trustee, or an employee of the Salt Lake Organizing Committee for the
956 Olympic Winter Games of 2002; or

957 (II) a volunteer supervised by the Salt Lake Organizing Committee for the Olympic

958 Winter Games of 2002; and
959 (C) for which the Salt Lake Organizing Committee for the Olympic Winter Games of
960 2002 does not receive reimbursement;
961 (9) sales of vehicles of a type required to be registered under the motor vehicle laws of
962 this state which are made to bona fide nonresidents of this state and are not afterwards
963 registered or used in this state except as necessary to transport them to the borders of this state;
964 (10) sales of medicine;
965 (11) sales or use of property, materials, or services used in the construction of or
966 incorporated in pollution control facilities allowed by Sections 19-2-123 through 19-2-127;
967 (12) (a) sales of meals served by:
968 (i) the following if the meals are not available to the general public:
969 (A) a church; or
970 (B) a charitable institution;
971 (ii) an institution of higher education if:
972 (A) the meals are not available to the general public; or
973 (B) the meals are prepaid as part of a student meal plan offered by the institution of
974 higher education; or
975 (b) inpatient meals provided at:
976 (i) a medical facility; or
977 (ii) a nursing facility;
978 (13) isolated or occasional sales by persons not regularly engaged in business, except
979 the sale of vehicles or vessels required to be titled or registered under the laws of this state in
980 which case the tax is based upon:
981 (a) the bill of sale or other written evidence of value of the vehicle or vessel being sold;
982 or
983 (b) in the absence of a bill of sale or other written evidence of value, the then existing
984 fair market value of the vehicle or vessel being sold as determined by the commission;
985 (14) (a) the following purchases or leases by a manufacturer on or after July 1, 1995:
986 (i) machinery and equipment:
987 (A) used in the manufacturing process;
988 (B) having an economic life of three or more years; and

989 (C) used:
990 (I) to manufacture an item sold as tangible personal property; and
991 (II) in new or expanding operations in a manufacturing facility in the state; and
992 (ii) subject to the provisions of Subsection (14)(b), normal operating replacements that:
993 (A) have an economic life of three or more years;
994 (B) are used in the manufacturing process in a manufacturing facility in the state;
995 (C) are used to replace or adapt an existing machine to extend the normal estimated
996 useful life of the machine; and
997 (D) do not include repairs and maintenance;
998 (b) the rates for the exemption under Subsection (14)(a)(ii) are as follows:
999 (i) beginning July 1, 1996, through June 30, 1997, 30% of the sale or lease described in
1000 Subsection (14)(a)(ii) is exempt;
1001 (ii) beginning July 1, 1997, through June 30, 1998, 60% of the sale or lease described in
1002 Subsection (14)(a)(ii) is exempt; and
1003 (iii) beginning July 1, 1998, 100% of the sale or lease described in Subsection
1004 (14)(a)(ii) is exempt;
1005 (c) for purposes of this Subsection (14), the commission shall by rule define the terms
1006 "new or expanding operations" and "establishment"; and
1007 (d) on or before October 1, 1991, and every five years after October 1, 1991, the
1008 commission shall:
1009 (i) review the exemptions described in Subsection (14)(a) and make recommendations
1010 to the Revenue and Taxation Interim Committee concerning whether the exemptions should be
1011 continued, modified, or repealed; and
1012 (ii) include in its report:
1013 (A) the cost of the exemptions;
1014 (B) the purpose and effectiveness of the exemptions; and
1015 (C) the benefits of the exemptions to the state;
1016 (15) (a) sales of the following if the requirements of Subsection (15)(b) are met:
1017 (i) tooling;
1018 (ii) special tooling;
1019 (iii) support equipment;

1020 (iv) special test equipment; or
1021 (v) parts used in the repairs or renovations of tooling or equipment described in
1022 Subsections (15)(a)(i) through (iv); and
1023 (b) sales of tooling, equipment, or parts described in Subsection (15)(a) are exempt if:
1024 (i) the tooling, equipment, or parts are used or consumed exclusively in the
1025 performance of any aerospace or electronics industry contract with the United States
1026 government or any subcontract under that contract; and
1027 (ii) under the terms of the contract or subcontract described in Subsection (15)(b)(i),
1028 title to the tooling, equipment, or parts is vested in the United States government as evidenced
1029 by:
1030 (A) a government identification tag placed on the tooling, equipment, or parts; or
1031 (B) listing on a government-approved property record if placing a government
1032 identification tag on the tooling, equipment, or parts is impractical;
1033 (16) intrastate movements of:
1034 (a) freight by common carriers; or
1035 (b) passengers:
1036 (i) by taxicabs as described in SIC Code 4121 of the 1987 Standard Industrial
1037 Classification Manual of the federal Executive Office of the President, Office of Management
1038 and Budget;
1039 (ii) transported by an establishment described in SIC Code 4111 of the 1987 Standard
1040 Industrial Classification Manual of the federal Executive Office of the President, Office of
1041 Management and Budget, if the transportation originates and terminates within a county of the
1042 first, second, or third class; or
1043 (iii) transported by the following described in SIC Code 4789 of the 1987 Standard
1044 Industrial Classification Manual of the federal Executive Office of the President, Office of
1045 Management and Budget:
1046 (A) a horse-drawn cab; or
1047 (B) a horse-drawn carriage[-];
1048 (17) sales of newspapers or newspaper subscriptions;
1049 (18) tangible personal property, other than money, traded in as full or part payment of
1050 the purchase price, except that for purposes of calculating sales or use tax upon vehicles not

1051 sold by a vehicle dealer, trade-ins are limited to other vehicles only, and the tax is based upon:

1052 (a) the bill of sale or other written evidence of value of the vehicle being sold and the
1053 vehicle being traded in; or

1054 (b) in the absence of a bill of sale or other written evidence of value, the then existing
1055 fair market value of the vehicle being sold and the vehicle being traded in, as determined by the
1056 commission;

1057 (19) sprays and insecticides used to control insects, diseases, and weeds for
1058 commercial production of fruits, vegetables, feeds, seeds, and animal products, but not those
1059 sprays and insecticides used in the processing of the products;

1060 (20) (a) (i) sales of tangible personal property used or consumed primarily and directly
1061 in farming operations, including sales of irrigation equipment and supplies used for agricultural
1062 production purposes, whether or not they become part of real estate and whether or not
1063 installed by farmer, contractor, or subcontractor, but not sales of:

1064 (A) machinery, equipment, materials, and supplies used in a manner that is incidental
1065 to farming, such as hand tools with a unit purchase price not in excess of \$250, and
1066 maintenance and janitorial equipment and supplies;

1067 (B) tangible personal property used in any activities other than farming, such as office
1068 equipment and supplies, equipment and supplies used in sales or distribution of farm products,
1069 in research, or in transportation; or

1070 (C) any vehicle required to be registered by the laws of this state, without regard to the
1071 use to which the vehicle is put; or

1072 (ii) sales of parts used in the repairs or renovations of tangible personal property if the
1073 tangible personal property is exempt under Subsection (20)(a); or

1074 (b) sales of hay;

1075 (21) exclusive sale of locally grown seasonal crops, seedling plants, or garden, farm, or
1076 other agricultural produce if sold by a producer during the harvest season;

1077 (22) purchases of food as defined in 7 U.S.C. Sec. 2012(g) under the Food Stamp
1078 Program, 7 U.S.C. Sec. 2011 et seq.;

1079 (23) sales of nonreturnable containers, nonreturnable labels, nonreturnable bags,
1080 nonreturnable shipping cases, and nonreturnable casings to a manufacturer, processor,
1081 wholesaler, or retailer for use in packaging tangible personal property to be sold by that

1082 manufacturer, processor, wholesaler, or retailer;

1083 (24) property stored in the state for resale;

1084 (25) property brought into the state by a nonresident for his or her own personal use or

1085 enjoyment while within the state, except property purchased for use in Utah by a nonresident

1086 living and working in Utah at the time of purchase;

1087 (26) property purchased for resale in this state, in the regular course of business, either

1088 in its original form or as an ingredient or component part of a manufactured or compounded

1089 product;

1090 (27) property upon which a sales or use tax was paid to some other state, or one of its

1091 subdivisions, except that the state shall be paid any difference between the tax paid and the tax

1092 imposed by this part and Part 2, Local Sales and Use Tax Act, and no adjustment is allowed if

1093 the tax paid was greater than the tax imposed by this part and Part 2, Local Sales and Use Tax

1094 Act;

1095 (28) any sale of a service described in Subsections 59-12-103(1)(b), (c), and (d) to a

1096 person for use in compounding a service taxable under the subsections;

1097 (29) purchases of supplemental foods as defined in 42 U.S.C. Sec. 1786(b)(14) under

1098 the special supplemental nutrition program for women, infants, and children established in 42

1099 U.S.C. Sec. 1786;

1100 (30) beginning on July 1, 1999, through June 30, 2004, sales or leases of rolls, rollers,

1101 refractory brick, electric motors, or other replacement parts used in the furnaces, mills, or ovens

1102 of a steel mill described in SIC Code 3312 of the 1987 Standard Industrial Classification

1103 Manual of the federal Executive Office of the President, Office of Management and Budget;

1104 (31) sales of boats of a type required to be registered under Title 73, Chapter 18, State

1105 Boating Act, boat trailers, and outboard motors which are made to bona fide nonresidents of

1106 this state and are not thereafter registered or used in this state except as necessary to transport

1107 them to the borders of this state;

1108 (32) sales of tangible personal property to persons within this state that is subsequently

1109 shipped outside the state and incorporated pursuant to contract into and becomes a part of real

1110 property located outside of this state, except to the extent that the other state or political entity

1111 imposes a sales, use, gross receipts, or other similar transaction excise tax on it against which

1112 the other state or political entity allows a credit for taxes imposed by this chapter;

1113 (33) sales of aircraft manufactured in Utah if sold for delivery and use outside Utah
1114 where a sales or use tax is not imposed, even if the title is passed in Utah;
1115 (34) amounts paid for the purchase of telephone service for purposes of providing
1116 telephone service;
1117 (35) fares charged to persons transported directly by a public transit district created
1118 under the authority of Title 17A, Chapter 2, Part 10, Utah Public Transit District Act;
1119 (36) sales or leases of vehicles to, or use of vehicles by an authorized carrier;
1120 (37) (a) 45% of the sales price of any new manufactured home; and
1121 (b) 100% of the sales price of any used manufactured home;
1122 (38) sales relating to schools and fundraising sales;
1123 (39) sales or rentals of home medical equipment or supplies;
1124 (40) (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in
1125 Section 72-11-102; and
1126 (b) the commission shall by rule determine the method for calculating sales exempt
1127 under Subsection (40)(a) that are not separately metered and accounted for in utility billings;
1128 (41) sales to a ski resort of:
1129 (a) snowmaking equipment;
1130 (b) ski slope grooming equipment;
1131 (c) passenger ropeways as defined in Section 72-11-102; or
1132 (d) parts used in the repairs or renovations of equipment or passenger ropeways
1133 described in Subsections (41)(a) through (c);
1134 (42) sales of natural gas, electricity, heat, coal, fuel oil, or other fuels for industrial use;
1135 (43) sales or rentals of the right to use or operate for amusement, entertainment, or
1136 recreation a coin-operated amusement device as defined in Section 59-12-102;
1137 (44) sales of cleaning or washing of tangible personal property by a coin-operated car
1138 wash machine;
1139 (45) sales by the state or a political subdivision of the state, except state institutions of
1140 higher education as defined in Section 53B-3-102, of:
1141 (a) photocopies; or
1142 (b) other copies of records held or maintained by the state or a political subdivision of
1143 the state;

1144 (46) (a) amounts paid:
1145 (i) to a person providing intrastate transportation to an employer's employee to or from
1146 the employee's primary place of employment;
1147 (ii) by an:
1148 (A) employee; or
1149 (B) employer; and
1150 (iii) pursuant to a written contract between:
1151 (A) the employer; and
1152 (B) (I) the employee; or
1153 (II) a person providing transportation to the employer's employee; and
1154 (b) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
1155 commission may for purposes of Subsection (46)(a) make rules defining what constitutes an
1156 employee's primary place of employment;
1157 (47) amounts paid for admission to an athletic event at an institution of higher
1158 education that is subject to the provisions of Title IX of the Education Amendments of 1972,
1159 20 U.S.C. Sec. 1681 et seq.;
1160 (48) sales of telephone service charged to a prepaid telephone calling card;
1161 (49) (a) sales of:
1162 (i) hearing aids;
1163 (ii) hearing aid accessories; or
1164 (iii) except as provided in Subsection (49)(b), parts used in the repairs or renovations
1165 of hearing aids or hearing aid accessories; and
1166 (b) for purposes of this Subsection (49), notwithstanding Subsection (49)(a)(iii),
1167 "parts" does not include batteries;
1168 (50) (a) sales made to or by:
1169 (i) an area agency on aging; or
1170 (ii) a senior citizen center owned by a county, city, or town; or
1171 (b) sales made by a senior citizen center that contracts with an area agency on aging;
1172 (51) (a) beginning on July 1, 2000, through June 30, 2002, amounts paid or charged as
1173 admission or user fees described in Subsection 59-12-103(1)(f) relating to the Olympic Winter
1174 Games of 2002 if the amounts paid or charged are established by the Salt Lake Organizing

1175 Committee for the Olympic Winter Games of 2002 in accordance with requirements of the
1176 International Olympic Committee; and
1177 (b) the State Olympic Officer and the Salt Lake Organizing Committee for the Olympic
1178 Winter Games of 2002 shall make at least two reports during the 2000 interim:
1179 (i) to the:
1180 (A) Olympic Coordination Committee; and
1181 (B) Revenue and Taxation Interim Committee; and
1182 (ii) regarding the status of:
1183 (A) agreements relating to the funding of public safety services for the Olympic Winter
1184 Games of 2002;
1185 (B) agreements relating to the funding of services, other than public safety services, for
1186 the Olympic Winter Games of 2002;
1187 (C) other agreements relating to the Olympic Winter Games of 2002 as requested by
1188 the Olympic Coordination Committee or the Revenue and Taxation Interim Committee;
1189 (D) other issues as requested by the Olympic Coordination Committee or the Revenue
1190 and Taxation Interim Committee; or
1191 (E) a combination of Subsections (51)(b)(ii)(A) through (D);
1192 (52) (a) beginning on July 1, 2001, through June 30, 2004, and subject to Subsection
1193 (52)(b), a sale or lease of semiconductor fabricating or processing materials regardless of
1194 whether the semiconductor fabricating or processing materials:
1195 (i) actually come into contact with a semiconductor; or
1196 (ii) ultimately become incorporated into real property;
1197 (b) (i) beginning on July 1, 2001, through June 30, 2002, 10% of the sale or lease
1198 described in Subsection (52)(a) is exempt;
1199 (ii) beginning on July 1, 2002, through June 30, 2003, 50% of the sale or lease
1200 described in Subsection (52)(a) is exempt; and
1201 (iii) beginning on July 1, 2003, through June 30, 2004, the entire amount of the sale or
1202 lease described in Subsection (52)(a) is exempt; and
1203 (c) each year on or before the November interim meeting, the Revenue and Taxation
1204 Interim Committee shall:
1205 (i) review the exemption described in this Subsection (52) and make recommendations

1206 concerning whether the exemption should be continued, modified, or repealed; and
1207 (ii) include in the review under this Subsection (52)(c):
1208 (A) the cost of the exemption;
1209 (B) the purpose and effectiveness of the exemption; and
1210 (C) the benefits of the exemption to the state;
1211 (53) an amount paid by or charged to a purchaser for accommodations and services
1212 described in Subsection 59-12-103(1)(i) to the extent the amount is exempt under Section
1213 59-12-104.2;
1214 (54) beginning on September 1, 2001, the lease or use of a vehicle issued a temporary
1215 sports event registration certificate in accordance with Section 41-3-306 for the event period
1216 specified on the temporary sports event registration certificate; ~~or~~
1217 (55) sales or uses of electricity, if the sales or uses are:
1218 (a) made under a tariff adopted by the Public Service Commission of Utah only for
1219 purchase of electricity produced from a new wind, geothermal, biomass, or solar power energy
1220 source, as designated in the tariff by the Public Service Commission of Utah; and
1221 (b) for an amount of electricity that is:
1222 (i) unrelated to the amount of electricity used by the person purchasing the electricity
1223 under the tariff described in Subsection (55)(a); and
1224 (ii) equivalent to the number of kilowatthours specified in the tariff described in
1225 Subsection (55)(a) that may be purchased under the tariff described in Subsection (55)(a)~~[-]~~;
1226 (56) (a) the following purchases by, or on behalf of, a telephone service provider:
1227 (i) machinery or equipment:
1228 (A) purchased for use primarily in the provision of telephone service to the general
1229 public; and
1230 (B) that has a useful economic life of three or more years; and
1231 (ii) parts:
1232 (A) used in the repair or replacement of the machinery or equipment described in
1233 Subsection (56)(a)(i); and
1234 (B) that have a useful economic life of three or more years; and
1235 (b) for purposes of this Subsection (56), the commission shall by rule made in
1236 accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, define what

1237 constitutes machinery or equipment "purchased for use primarily in the provision of telephone
1238 service to the general public"; or

1239 (57) amounts paid by an establishment described in NAICS Code 561422 or 561599 of
1240 the federal 1997 North American Industry Classification System Manual, Executive Office of
1241 the President, Office of Management and Budget, for the purchase of:

1242 (a) international telephone service; or

1243 (b) interstate telephone service.

1244 Section 6. Section **59-12-110.1** is enacted to read:

1245 **59-12-110.1. Procedures for taxes erroneously charged a purchaser.**

1246 (1) Subject to the other provisions of this section, a purchaser of telephone service may
1247 request from a telephone service provider a refund or credit of any amount that the purchaser
1248 overpaid in taxes under this chapter that were collected by the telephone service provider.

1249 (2) (a) Except as provided in Subsection (2)(b), the procedure described in Subsection
1250 (1) is in addition to the process for a taxpayer to file a claim for a refund or credit with the
1251 commission under Subsection 59-12-110(2)(b).

1252 (b) Notwithstanding Subsection (2)(a):

1253 (i) the commission is not required to provide a refund or credit of an amount for which
1254 as of the date the refund or credit is to be given the purchaser has received a refund or credit
1255 from the telephone service provider; and

1256 (ii) a telephone service provider is not required to provide a refund or credit of an
1257 amount for which as of the date the refund or credit is to be given the purchaser has received a
1258 refund or credit from the commission.

1259 (3) A purchaser may not bring a cause of action against a telephone service provider
1260 for a refund or credit described in Subsection (1):

1261 (a) unless the purchaser provides the telephone service provider written notice that:

1262 (i) the purchaser requests the refund or credit described in Subsection (1); and

1263 (ii) contains the information necessary to determine the validity of the request
1264 described in Subsection (3)(a)(i); and

1265 (b) before 60 days from the day on which the telephone service provider receives the
1266 written notice described in Subsection (3)(a).

1267 Section 7. **Repealer.**

1268 This act repeals:
1269 Section **69-2-5.5, Emergency services telephone charge to fund the Poison Control**
1270 **Center.**
1271 Section 8. **Effective date.**
1272 This act takes effect on July 1, 2003.

Legislative Review Note
as of 11-26-02 7:11 AM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel

Legislative Committee Note
as of 12-12-02 2:40 PM

The Competition in Telecommunications Industry Task Force recommended this bill.

Fiscal Note**Telecommunications Related Taxes, Fees, and Charges***17-Jan-03***Bill Number: SB0022***12:43 PM*

Passage of this bill could decrease the General Fund by \$2,239,100 in FY 2003, by \$2,023,100 in FY 2004 and by \$4,131,500 in FY 2005. The bill would require an appropriation to the Public Service Commission from Dedicated Credit Revenues set aside as a result of this bill in the amount of \$2,691,200 in FY 2003, \$2,771,900 in FY 2004, and \$2,882,800 for FY 2005. There would also be an appropriation to the University of Utah Poison Control Center from Dedicated Credit Revenues of \$1,868,900 in FY 2003, \$1,924,900 in FY 2004 and \$2,001,000 in FY 2005

	<u>FY 03 Approp.</u>	<u>FY 03 Revenue</u>	<u>FY 04 Approp.</u>	<u>FY 04 Revenue</u>	<u>FY 05 Approp.</u>	<u>FY 05 Revenue</u>
General Fund	\$0	(\$2,239,100)	\$0	(\$2,023,100)	\$0	(\$4,131,500)
Dedicated Credits Revenue	\$4,560,100	\$0	\$4,696,800	\$0	\$4,883,800	\$0
TOTAL	\$4,560,100	(\$2,239,100)	\$4,696,800	(\$2,023,100)	\$4,883,800	(\$4,131,500)

Individual and Business Impact

Individuals will now pay sales tax on their long distance services, but will not be paying the surcharges for hearing impaired devices or the poison control center. Telecommunications providers will see savings from an exemption on certain equipment purchases. This bill also provides an exemption from sales tax on interstate long distance calls by certain call centers.

Office of the Legislative Fiscal Analyst